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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,523	02/05/2004	Leonard A. Weisbeck III		5396

7590 02/10/2005

James C. Simmons
The Law Office of James C. Simmons
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Williamsville, NY 14221

EXAMINER

MORROW, JASON S

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,523

Applicant(s)

WEISBECK, LEONARD A.

Examiner

Jason S. Morrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-12,14-17,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 3,13,18 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 34. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5, 7-11, 14-17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Rigau.

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Re claim 1, Rigau discloses an assembly for a vehicle having a tailgate, the assembly comprising a plate for attachment to the tailgate and having an upper and a pair of side edges when attached to the tailgate with the tailgate in a closed position, a panel hingedly connected to the upper edge of the plate for serving as an alternative tailgate, and at least one side panel hingedly connected to one of the side edges of the plate.

Re claim 5 a fastener is provided for detachably attaching the alternative tailgate panel to the at least one side panel.

Re claim 7, a clip is provided for releasably attaching a rear edge of the at least one side panel to the alternative tailgate panel.

Re claim 8, the plate is detachably attached to the tailgate.

Re claim 9, the plate is attached to the inner surface of the tailgate.

Re claim 10, Rigau discloses an assembly for a vehicle having a tailgate which has an upper and a pair of side edges when the tailgate is in a closed position, the assembly comprising a panel which serves as an alternative tailgate, at least one side panel, and means for hingedly connecting the alternative tailgate panel to the upper edge of the tailgate, means for deploying the alternative tailgate panel to an open position wherein the alternative tailgate panel forms an angle of about 180 degrees with the tailgate when the tailgate is in the open position, and means for hingedly connecting the at least one side panel to one of the side edges of the tailgate.

Re claim 11, a plate is provided for attachment to the tailgate, the alternative tailgate panel and the at least one side panel being hingedly connected to the plate.

Re claim 14, a clip is provided for releasably attaching a rear edge of the at least one side panel to the alternative tailgate panel.

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Re claim 15, a fastener is provided for detachably attaching the alternative tailgate panel to the at least one side panel.

Re claim 16, Rigau discloses an assembly for a vehicle having a tailgate which has an upper and a pair of side edges when the tailgate is in a closed position, the assembly comprising a panel which serves as an alternative tailgate and which is hingedly connected to the upper edge of the tailgate, at least one side panel hingedly connected to one of the side edges of the tailgate, and a pair of cables connected to the alternative tailgate panel and attachable to the vehicle for deploying the alternative tailgate panel in an open position wherein the alternative tailgate panel forms an angle of about 180 degrees with the tailgate when the tailgate is in the open position.

Re claim 17, a plate for attachment to the tailgate is provided, the alternative tailgate panel and the at least one side panel being hingedly connected to the plate.

Re claim 20, at least one clip is provided on the at least one side panel for receiving the respective cable for maintaining position of the at least one side panel.

Rigau discloses a pair of cables connected to the alternative tailgate panel for deploying the alternative tailgate panel in an open position wherein the alternative tailgate panel forms an angle of about 180 degrees with the tailgate when the tailgate is in the open position.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2, 4, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rigau in view of Jarman.

Rigau discloses all the limitations of the claims, as applied above, except for the pair of cables being attachable to the vehicle.

Jarman teaches a pair of cables attachable to a vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify an assembly, such as that disclosed by Rigau, to have the pair of cable attachable to the vehicle, as taught by Jarman, in order to allow the alternative tailgate to be in the open position while the side panels are in the folded position (see figure 2 of Jarman).

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rigau.

Rigau discloses all the limitations of the claim, as applied above, except for the assembly being constructed of aluminum.

The use of aluminum is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct an assembly, such as that disclosed by Rigau, of aluminum, as is old and well known in the art, since aluminum is a well known and readily available material suitable for mass manufacture.

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Allowable Subject Matter

7. Claims 3, 13, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cummins, Garofalo, and Sanders disclose extension mechanisms for vehicle beds.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (703) 305-7803.

The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason S. Morrow
Examiner
Art Unit 3612

Art Unit: 3612

February 4, 2005


JASON MORROW
PRIMARY PATENT EXAMINER
2/5/04